Pearson BTEC Level 3 Nationals Certificate/Extended Certificate

June 2022

Paper reference **20168K**

Applied Law

UNIT 1: Dispute Solving in Civil Law

Part A

You do not need any other materials.

Instructions

- **Part A** contains material for the completion of the preparatory work for the Set Task in **Part B**.
- **Part A** is given to learners before **Part B** as scheduled by Pearson.
- Learners are advised to spend no more than six hours on **Part A**.
- **Part A** must be given to learners on the date specified by Pearson so that learners can prepare in the way specified.
- **Part A** is specific to each series and this material must only be issued to learners who have been entered to take the task in that series.
- **Part B** materials for the Set Task must only be issued to learners on the date specified by Pearson.

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Instructions to Teachers/Tutors

This paper must be read in conjunction with the information on conduct for the task in the unit specification and in the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document. For further details please see the Pearson website.

This Set Task has a preparatory period. **Part A** sets out how learners should prepare for the completion of the task under supervised conditions.

Learners should undertake independent research on the **Part A** Set Task Information given in this booklet.

Learners are advised to spend no more than six hours undertaking **Part A**.

Centres must issue this booklet at the appropriate time and advise learners of the timetabled sessions during which they can prepare. It is expected that scheduled lessons or other timetabled slots will be used for some or all of the preparation.

Learners may prepare summary notes on the **Part A** Set Task Information. Learners may take up to two A4 sides of notes into the supervised assessment period (**Part B**). Learner notes must only contain details of legal principles and authorities, such as case law and statute law. Learner notes must also comply with the guidelines stated in the Administrative Support Guide for this unit.

Teachers/tutors cannot give any guidance or feedback to learners in the preparation of assessment notes, which must be completed independently by the learner.

The **Part B** supervised assessment will take place in a timetabled slot on a date specified by Pearson.

Refer carefully to the instructions in this booklet and the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document to ensure that the preparatory period is conducted correctly so that learners have completed their preparation validly and independently.

Learner notes will be retained securely by the centre after the **Part B** supervised assessment and may be requested by Pearson if there is suspected malpractice.

Instructions for Learners

Read the Set Task Brief and the Set Task Information carefully.

This contains **Part A** of the information you need to prepare for the Set Task in **Part B**. In **Part B** you will be given detailed information. Use this **Part A** booklet to prepare by relating your learning to the specific information given.

You must work independently and must not share your work with other learners.

Your teacher/tutor may give you guidance on when you can complete the preparation.

Your teacher/tutor cannot give you guidance or feedback in the preparation of your assessment notes.

Set Task Brief

You must research the law relating to the extracts in the **Part A** Set Task Information. You need to know about the law of negligence, including damages.

You also need to know about civil dispute resolution, enforcement of civil law and how precedent works.

In **Part B** you will need to apply your research to the new information provided.

Using this **Part A** booklet, you may prepare short notes to refer to when completing the Set Task in **Part B**, for example on specific cases. Your notes may be up to two sides of A4. Your notes must only contain details of legal principles and authorities, such as case law and statute law.

You should spend no more than six hours on this research.

Part A Set Task Information

Walker v Northumberland County Council (1995)

Background: This case is about the standard of care in breach of duty. It is about the way that special characteristics of the claimant, and the extent of any possible harm caused to that claimant, should be considered when assessing whether a breach of duty has taken place.

Facts: Mr Walker was employed as a social worker by Northumberland County Council. He also managed four teams of other social workers dealing with, amongst other things, a large number of children at risk. The job was very challenging and stressful and it led to Mr Walker suffering a nervous breakdown. He was on sick leave for three months and then he returned to work. There was an agreement that his workload would be reduced, assistance would be provided and there would be less pressure. However, none of these things were done. Also, the Council told him that he had to clear a backlog of work from when he was off sick. As a result, Mr Walker had another nervous breakdown and was unable to carry on working. Mr Walker sued the Council for negligence.

Legal decision: The Council was held to have breached its duty to protect Mr Walker's psychiatric wellbeing. After the first breakdown had happened, it was foreseeable that a continuation of the stress he was under would damage his mental health, and the Council was negligent in failing to take reasonable steps to prevent that. It was also held that the employer's duty of care to employees can include a duty not to cause psychiatric injury.

Case quote: "*Having regard to the reasonably foreseeable size of the risk of repetition of Mr Walker's illness if his duties were not alleviated by effective additional assistance and to the reasonably foreseeable gravity of the mental breakdown which might result if nothing were done, I have come to the conclusion that the standard of care to be expected of a reasonable local authority required that […] such additional assistance should be provided if not on a permanent basis, at least until restructuring […] had been effected and the workload on Mr Walker thereby permanently reduced. […] When Mr Walker returned from his first illness the Council had to decide whether it was prepared to go on employing him in spite of the fact that he had made it sufficiently clear that he must have effective additional help if he was to continue. It chose to continue to employ him but provided no effective help. In so doing it was, in my judgment, acting unreasonably and therefore in breach of its duty of care*" … Mr Justice Caiman.

Principles: If the defendant knows that a specific claimant has a special characteristic or vulnerability that increases the risk of suffering greater damage than normal, the defendant may be required to reach a higher standard of care. Also, employers have a duty not to cause psychiatric injury to their employees as well as physical injury or illness.

(Source: adapted from Walker v Northumberland County Council [1995] 1 All ER 737: (https://www.bailii.org/ew/cases/EWHC/QB/1994/2.html))

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Time 1 hour 30 minutes

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Applied Law

UNIT 1: Dispute Solving in Civil Law

Part B

You must have:
Your prepared notes from **Part A** (maximum two sides A4)

Instructions

- **Part B** contains material for the completion of the Set Task under supervised conditions.
- **Part B** should be undertaken by learners in 1 hour 30 minutes on the date specified by Pearson.
- **Part B** is specific to each series and this material must only be issued to learners who have been entered to undertake the task in that series.
- **Part B** should be kept securely until the start of the supervised assessment period.
- This booklet should not be returned to Pearson.

Information

- The total mark for this Set Task is 60.

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Instructions to Teachers/Tutors and/or Invigilators

This paper must be read in conjunction with the information on conduct for the task in the unit specification and the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document. For further details please see the Pearson website.

The **Part B** Set Task is undertaken under supervision in a single session of 1 hour 30 minutes on the timetabled date.

The **Part B** Set Task requires learners to apply research. Learners should bring in notes as defined in **Part A**. The teacher/tutor and/or invigilator needs to ensure that notes comply with the requirements set out in the Administrative Support Guide for this unit.

Learners will need to complete the activities for the **Part B** Set Task using a computer.

The **Part B** Set Task is undertaken in a single session of 1 hour 30 minutes in a timetabled period. In order to enable learners to have access to computer resources, a period of one day is provided for centres to timetable the assessment.

Centres should schedule all learners in the same session if possible and must release **Part B** to individual learners only for their scheduled session.

Learner work must be completed independently and authenticated before being submitted to Pearson by the teacher/tutor and/or invigilator.

Centres are responsible for putting in place appropriate checks to ensure that only permitted material is introduced into the supervised environment. Learners must not bring anything into the supervised environment or take anything out of it without approval.

Maintaining security

- During supervised assessment periods, the assessment areas must be accessible only to the individual learners and to named members of staff.
- Learners can access their work only under supervision.
- Any work that learners produce under supervision must be kept securely.
- Any materials being used by learners must be collected in at the end and retained by the centre.
- Learner notes related to **Part A** must be checked to ensure length and contents comply with the requirements. Learner notes will be retained securely by the centre after **Part B** has been undertaken and may be requested by Pearson if there is suspected malpractice.

Outcomes for submission

The learner will need to submit three documents on completion of the supervised assessment period:

- a file note for Activity 1
- a solicitor's letter for Activity 2
- a completed Declaration of Authenticity.

Instructions for Learners

Read the activities **and** the Set Task Information carefully.

You have a total of 1 hour 30 minutes in this session to complete the task.

You should use the notes you prepared during **Part A** to complete this Set Task.

Your notes must be your own work and will be retained by your centre until results are issued.

You will complete this Set Task under supervision and your work will be kept securely at all times.

You must work independently throughout the supervised assessment period and must not share your work with other learners.

You should complete **both** activities.

Outcomes for submission

You will need to submit three documents on completion of the supervised assessment period:

- a file note for Activity 1
- a solicitor's letter for Activity 2
- a completed Declaration of Authenticity.

Your work must be word processed in size 12-point font.

Your prepared notes do not need to be submitted with the final outcomes to Pearson.

Set Task

You should complete **both** activities.

Using the information provided in the Set Task Information and your notes from **Part A**, complete the following activities.

Activity 1

You are a trainee solicitor at Goldsithney Solicitors LLP. Your supervisor has given you the details of a personal injury case involving an air traffic controller, Tariq Aziz. Tariq wants to bring a claim against his former employer, Midshire Airport.

You have been asked to prepare additional file notes to be included in the Client Advice File relating to Tariq's case.

The file notes need to:

- show your understanding of the law relevant to the law of negligence
- show how the law of negligence applies to this case
- establish the likely outcome of the case.

(Total for Activity 1 = 30 marks)

Activity 2

Tariq has been informed of the likely outcome of the case and he now wants further advice.

Prepare a solicitor's letter that shows your understanding of:

- the likely damages Tariq could expect if he is successful
- the ways in which the claim could be funded and alternative sources of advice
- the use of Alternate Dispute Resolution instead of the appropriate civil court for Tariq's case.

(Total for Activity 2 = 30 marks)

TOTAL FOR PAPER = 60 MARKS

Set Task Information

Tariq works for Midshire Airport as an air traffic controller. He has done this job for 20 years. The job is very demanding and stressful and it involves a lot of responsibility for the lives of thousands of air passengers.

In recent years the airport has expanded and become much busier and Tariq's workload has increased considerably. Action from local protestors using drones and laser pens to distract pilots has added to the pressure at work. Tariq and his union gave his employers written notice that the increased workload was becoming unmanageable and posed a safety risk.

However, the workload continued and it affected Tariq's stress levels. As a result of the stress, 12 months ago Tariq's doctor signed him off work for three months. Before this, Tariq had no record of any mental health problems and had a normal, happy home life.

As part of his return-to-work plan, Midshire Airport had agreed to clear his administrative backlog, reduce his workload, provide another member of staff to support him and make sure he had regular breaks. However, when Tariq returned to work none of these things happened. Tariq's job was even busier because he was expected to cover for other staff who were also signed off work with stress.

Tariq and his union again notified his employer in writing that the situation had not improved. However, his employer took no action to improve it. As a result, six months ago the pressure became too much and Tariq had a nervous breakdown. His doctor advised him not to return to work and Midshire Airport terminated his employment on grounds of ill-health. He may never work again as an air traffic controller.

Tariq earned £100,000 a year as an air traffic controller. Since he stopped working, he has had to manage on benefits of £100 a week because his doctor had said he is not fit to work. He has not been able to pay his mortgage or his car loan and he has lost both his home and his car.

Tariq was also a part-time clarinet player in a jazz band. He would have at least four gigs a month and he was paid £250 per gig. Tariq's mental health is now so bad that he does not have the confidence to perform to an audience.

Tariq's union has advised him to pursue an action in negligence.

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